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March 23, 2020

VIA ECF

Honorable Paul A. Engelmayer
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Michael Nelson et al. v. City of New York, et al.,
18-cv-04636 (PAE) (SDA)

Your Honor:

I am a Senior Counsel in the Office of Corporation Counsel and the attorney assigned to the defense of defendants City of New York, Miszuk, Tkaczuk, Frangatos, and Cortes. The parties write jointly in light of the ongoing COVID-19 pandemic to ask the Court to stay fact discovery in this matter.

As the Court is aware, the country is currently grappling with the COVID-19, or coronavirus, pandemic. On March 7, 2020, Governor Andrew Cuomo declared that New York is in a state of emergency because of the rapidly developing pandemic situation. On March 13, 2020, Mayor Bill de Blasio followed suit, and declared New York City to be in a state of emergency as well. This weekend, Governor Cuomo issued the New York on PAUSE Order, in an effort to maximize social distancing and reduce unnecessary social contact.

That same day, the United States District Court for the Southern District of New York ("Southern District") issued Standing Order 20 MISC 138, which encouraged individual judges to conduct court proceedings by phone and video conferencing where practicable. Also on March 13, 2020, the Southern District issued Standing Order 20 MISC 015, which suspended and tolled service of process requirements and deadlines. On March 16, 2020, the Southern District issued a Revised Standing Order further limiting access to courthouses.

In light of pronouncements from government and judicial officials, associated policies, expert recommendations, and the further spread of COVID-19, the New York City Law Department, along with the majority of employers in New York City and State, has advised that

individuals should work from home as much as is practicable to ensure compliance with public policy directives, and to protect individuals from further community spread of the virus. Furthermore, the members of the NYPD unit that assists ACCs in obtaining discovery and NYPD documents has been informed that they will be mobilized for other exigent police duties, and will no longer be processing discovery requests.

The parties have, to date, exchanged discovery demands and responses. Plaintiff Nelson has been deposed, and defendant Cortes have been deposed. However, while several depositions are scheduled to be held over the next few weeks, the parties are understandably concerned about the prospect of having counsel, witnesses and the court reporter working in close proximity of one another. Moreover, Assistant Attorney General Bruce Turkle, counsel for the State Defendants, has reported that because of the spread of the virus, he cannot visit correctional facilities to prepare the State Defendant to testify, and lacks the necessary technology to prepare the witnesses by teleconference. Further, for the purposes of both practicality and cost, the parties would prefer to take depositions live and in-person rather than remotely.

In light of the foregoing, and given the constantly changing circumstances, the parties respectfully request that the Court stay this matter. Should it please the Court, once society reverts to a normal state of affairs, the parties will then write the Court to propose a schedule for the completion of fact discovery. The parties thank the Court for its consideration under these unusual circumstances. The parties also extend their best wishes for the health and safety of the Court.

Respectfully Submitted,

/s/ Omar J. Siddiqi

Omar J. Siddiqi
Senior Counsel

Cc: Jeffrey Rothman (by ECF)
Bruce Turkle (by ECF)

Granted. This case will be stayed for 60 days, until May 24, 2020. At that point, the parties are to file a letter updating the Court on the status of the case. If the parties believe an extension of the stay is necessary, they are to request such an extension at that time. If not, the parties are directed to propose a joint schedule for the remainder of discovery. The Court wishes counsel well in this uncertain time.

SO ORDERED.

Paul A. Engelmayer

PAUL A. ENGELMAYER
United States District Judge

March 24, 2020